



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/690,081

10/21/2003

Jason W. Smith

S31912US

4822

28805 7590 01/28/2008
ARNOLD & KNOBLOCH, L.L.P.
2401 FOUNTAIN VIEW DRIVE
SUITE 630
HOUSTON, TX 77057

EXAMINER

HASAN, SYED Y

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

01/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,081

Applicant(s)

SMITH, JASON W.

Examiner

Syed Y. Hasan

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 5 and 7 - 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 5 and 7 - 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/28/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 - 11 filed on 11/05/2007 have been considered but are moot in view of the new ground(s) of rejection.

Applicants arguments with respect to claim 1 are as follows. "In Claim 1 as amended, the references of Peters, Newman, Steinstra, Camara, and Collins do not teach, either individually or in combination, momentary switches attributed to audio/video clips and used for selecting an audio/video clip. These references do not teach on/off switches attributed to special effects. These references do not teach these switches on a portable instrument where the portable instrument is used for processing audio/video clips in real time. Camara and Collins do not teach, either individually or in combination, a portable instrument having outputting means for outputting processed audio/video clips in real-time. Steinstra, Camara, and Collins do not teach, either individually or in combination, applying a special effect to a selected audio/video clip."

In response, examiner refers to Lo (US 6052472) that teaches momentary switches attributed to audio/video clips and used for selecting an audio/video clip (fig 5, 14, col 2, line 62 – col 3, line 2). Komata (US 6760041) teaches on/off switches attributed to special effects (col 1, lines 46 – 51, zoom-in and zoom-out illustrates special effects). Newman et al (US 6154600) teaches the portable instrument is used for processing audio/video clips in real time (fig 2B, portable remote control and col 11, lines 31 – 34, output at real-time rates)

Applicants arguments with respect to claim 7 are as follows. "In Claim 7 as amended, the references of Peters, Newman, Steinstra, Camara, and Collins do not teach, either individually or in combination, associating a plurality of momentary

switches to a plurality of audio/video clips, each momentary switch to a particular audio/video clip. In Peters, buttons are contemplated that additional buttons be provided so that a user may program their functionality, but does not teach the discovery of associating a momentary button to a particular audio/video clip. Newman's switches are not used for selecting clips, they representing capture functions, such as 'record', 'play', 'stop' and 'pause'. Peters, Newman, Steinstra, Camara, and Collins do not teach, either individually or in combination, associating a plurality of on/off switches to a plurality of special effects, each on/off switch to a special effect. Steinstra, Camara, and Collins do not teach, either individually or in combination, selecting for processing audio/video clips from a plurality of audio/video clips, based on a selected momentary switch selected from the plurality of momentary switches. Newman does not teach a computer readable medium having a computer readable program."

In response, examiner refers to Lo above for momentary switches and to Newman for a plurality of switches to a plurality of audio/video clips, each switch to a particular audio/video clip (fig 2b, col 6, lines 25 – 30 illustrating plurality of keys and col 14, lines 10 – 14 illustrates captured clips). Komata above refers to on/off switches to special effects (fig 5, col 6, lines 7 – 25). Previous office action mentioned that Newman does not teach a computer readable medium having a computer readable program but Peters (US 55771900) does.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman et al (US 6154600) in view of Lo (US 6052472) and further in view of Komata (US 6760041)

Regarding **claim 1** Newman et al discloses a portable instrument (figure 1, 122 and 124, col 6, line 19 - 20, main unit 122 and remote control 124 act as a portable instrument) for processing (col 5, line 63, non-linear editing system) audio/video (figure 4a, 162, col 7, line 5, a video signal input 162, and 164, col 7, lines 6 – 7, an audio signal input 164) clips (col 13, lines 65 - 67, audio/video clips) in real time (fig 2B, portable remote control and col 11, lines 31 – 34, output at real-time rates) said instrument comprising:

processing means for processing said audio/video clips (figure 5, 200, col 7, lines 25 – 26, non-linear editor 200 acts as a processing unit)

storage means for storing a plurality of said audio/video clips and a plurality of special effects (figure 5, 222 and figure 13, 552, col 16, lines 59 – 62, illustrate storing input audio/video clips with special effects)

first selecting means for selecting a clip from said plurality of audio/video clip (figure 8, 380, col 14, lines 11 – 14, illustrate selecting a clip)

second selecting means for selecting a special effect from said plurality of special effects (figure 8, 386, col 14, lines 34 – 36, illustrate selecting special effects) and

outputting means for outputting the processed audio/video clips in real time (col

8, lines 34 – 39, illustrate outputting processed clips in real time to a television set)

However Newman does not disclose wherein said first selecting means comprises one or more momentary switches, each of the one or more momentary switches attributed to a audio/video clip; wherein said second selecting means comprises one or more on/off switches, each of the one or more on/off switches attributed to a special effect; and wherein said processing means applies said selected special effect to said selected audio/video clip.

On the other hand Lo teaches wherein said first selecting means comprises one or more momentary switches, each of the one or more momentary switches attributed to a audio/video clip (fig 5, 14, col 2, line 62 – col 3, line 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate wherein said first selecting means comprises one or more momentary switches, each of the one or more momentary switches attributed to a audio/video clip as taught by Lo in the system of Newman et al in order to facilitate easy operation and effectively save available space.

The combination of Newman et al and Lo does not disclose wherein said second selecting means comprises one or more on/off switches, each of the one or more on/off switches attributed to a special effect and wherein said processing means applies said selected special effect to said selected audio/video clip

On the other hand Komata teaches wherein said second selecting means comprises one or more on/off switches, each of the one or more on/off switches attributed to a special effect (col1, lines 46 – 51, zoom-in and zoom-out illustrates special effects) and wherein said processing means applies said selected special effect to said selected audio/video clip (abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate wherein said second selecting means comprises one or more on/off switches, each of the one or more on/off switches attributed to a special effect; and wherein said processing means applies said selected special effect to said selected audio/video clip as taught by Komata in the combined system of Newman et al and Lo in order to provide instructions for effective commands for modifications

Regarding **claim 2** Newman et al discloses the portable instrument further comprising a receiving means for receiving said audio/video clips (col 7, lines 26 – 28, illustrate the receiving function)

Regarding **claim 3** Newman et al discloses the portable instrument wherein said receiving means is a wireless receiving means (figure 1, 106, col 6, lines 8 – 12, illustrate wireless links 106)

Regarding **claim 4** Newman et al discloses the portable instrument further comprising a transmitting means for transmitting the processed audio/video clips (col 8, lines 34 – 39, illustrate outputting processed clips in real time to a television set)

Regarding **claim 5** Newman et al discloses the portable instrument wherein said transmitting means is a wireless transmitting means (figure 1, 106, col 6, lines 8 – 12, illustrate wireless links 106)

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peters (US 5577190) in view of Komata (US 6760041)

Regarding **claim 7**, Peters discloses a computer readable medium having a computer readable program, (col 4, lines 56 – 58) said program comprising the steps

of:

associating a plurality of momentary switches to a plurality of audio/video clips, each momentary switch to a particular audio/video clip (fig 7, 54, 56 and 58, col 12, line 61 - 65)

receiving a plurality of said audio/video clips and a plurality of said special effects (col 53 – 61)

storing said plurality of said audio/video clips and said plurality of special effects (fig 1, 20, lines 41 – 61)

selecting for processing said audio/video clip from said plurality of audio/video clips based on a selected momentary switch of said plurality of momentary switches (fig 5A, 5B, col 11, line 1 to col 12 line 2 and col 13, lines 58 to col 14, line 4)

selecting for applying a special effect from said plurality of special effects, based on a selected on/off switch of said plurality of on/off switches (fig 5A, 5B, col 11, line 1 to col 12 line 2 and col 13, lines 58 to col 14, line 4)

applying the selected special effect to the selected audio/video clip to generate a resultant audio/video clip (fig 5A, 5B, col 11, line 1 to col 12 line 2 and col 13, lines 48 – 57) and

outputting said resultant audio/video clip (col 3, lines 36 – 47 and col 13, lines 58 to col 14, line 4)

However, Peters does not disclose associating a plurality of on/off switches to a plurality of special effects, each on/off switch to a special effect;

Komata on the other hand teaches associating a plurality of on/off switches to a plurality of special effects, each on/off switch to a special effect (col 1, lines 46 – 51, zoom-in and zoom-out illustrates special effects).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate associating a plurality of on/off switches to a plurality of special effects, each on/off switch to a special effect as taught by Komata in the system of Peters in order to provide instructions for effective commands for modifications

5. *Claims 8 and 11 are*
~~Claim 8 is~~ rejected under 35 U.S.C. 103(a) as being unpatentable over Newman et al (US 6154600) in view of Lo (US 6052472) and further in view of Komata (US 6760041) and still further in view of Peters (US 5577190) and still further in view of Subotnick (US 2003/0159567)

Regarding **claim 8**, Newman et al discloses a performance apparatus for mixing (col 11, lines 40 – 42) and playing (col 11, lines 63 – 66) multimedia clips (col 5, lines 46 – 60) comprising:

a portable performance device (fig 1, 124, remote control) further comprising: wherein said processing circuitry is capable of outputting the processed clip (col 8, lines 34 – 39, illustrate outputting processed clips in real time to a television set)

However Newman et al does not disclose one or more first switches disposed on said device; one or more second switches disposed on said device; wherein said first switches and said second switches are configured for receiving musical gestures; wherein said first switches are attributed to one or more clips; and wherein said second switches are attributed to one or more effects; and processing circuitry in communication with said first switches and said second switches capable of processing a clip that has been attributed from a selected first switch and capable of applying to the clip an effect that has been selected from a second switch, whereby a processed clip is produced;

On the other hand Lo teaches one or more first switches disposed on said

device; wherein said first switches are attributed to one or more clips

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate one or more first switches disposed on said device; wherein said first switches are attributed to one or more clips as taught by Lo in the system of Newman et al in order to effectively save the available space on the instrument.

The combination of Newman et al and Lo does not disclose one or more second switches disposed on said device; wherein said second switches are attributed to one or more effects

On the other hand Komata teaches one or more second switches disposed on said device wherein said second switches are attributed to one or more effects (col 1, lines 46 – 51, zoom-in and zoom-out illustrates special effects).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate one or more second switches disposed on said device; wherein said second switches are attributed to one or more effects as taught by Komata in the combined system of Newman et al and Lo in order to provide instructions for effective commands for modifications

The combination of Newman et al, Lo and Komata does not disclose processing circuitry in communication with switches capable of processing a clip that has been attributed from a selected first switch and capable of applying to the clip an effect that has been selected from a second switch, whereby a processed clip is produced

On the other hand Peter teaches processing circuitry in communication with

switches capable of processing a clip that has been attributed from a selected first switch and capable of applying to the clip an effect that has been selected from a second switch, whereby a processed clip is produced (fig 5A, 5B, col 11, line 1 to col 12 line 2 and col 13, lines 58 to col 14, line 4)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate processing circuitry in communication with switches capable of processing a clip that has been attributed from a selected first switch and capable of applying to the clip an effect that has been selected from a second switch, whereby a processed clip is produced as taught by Peters in the combined system of Newman et al, Lo and Komata in order to manipulate the stored material and so that it could be displayed, recorded and played back.

The combination of Newman et al, Lo, Komata and Peters do not disclose switches configured for receiving musical gestures

On the other hand Subotnick teaches switches configured for receiving musical gestures

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate switches configured for receiving musical gestures as taught by Subotnick in the combined system of Newman et al, Lo and Komata and Peters in order to enable the user to enhance the interactive nature of the system and provide the ability to alter the effect of a given gesture.

Claim 11 is rejected based on claim 8 above

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newman

et al (US 6154600) in view of Lo (US 6052472) and further in view of Komata (US 6760041) and further in view of Morez et al (US 3902397)

Regarding **claim 9** Newman et al discloses the portable instrument as shown above except one or more potentiometers, each associated to a special effect, whereby the special effect may be adjusted.

On the other hand Morez et al teaches one or more potentiometers (col 9, line 63 to col 10 line 1) each associated to a special effect (col 10, lines 29 – 34) whereby the special effect may be adjusted (col 14, lines 21 – 31)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate one or more potentiometers, each associated to a special effect, whereby the special effect may be adjusted as taught by Morez et al in the combined system of Newman et al, Lo and Komata in order to enable simplification of the control functions of the musical instrument

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peters (US 5577190) in view of Komata (US 6760041) and further in view of Morez et al (US 3902397)

Regarding **claim 10**, Peters and Komata disclose a computer readable medium (see claim 7 above) except above except one or more potentiometers, each associated to a special effect, whereby the special effect may be adjusted

On the other hand Morez et al teaches one or more potentiometers (col 9, line 63 to col 10 line 1) each associated to a special effect (col 10, lines 29 – 34) whereby the

special effect may be adjusted (col 14, lines 21 – 31)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate one or more potentiometers, each associated to a special effect, whereby the special effect may be adjusted as taught by Morez et al in the combined system of Peters and Komata in order to enable simplification of the control functions of the musical instrument

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Lakhansingh (US 2006/0245741) discloses a digital entertainment recorder.

Georges (US 7078609) discloses an interactive digital music recorder and player.

Zimmerman et al (US 5488196) discloses an electronic musical re-performance and editing system.

Stienstra (US 2004/0174431) discloses a device for interacting with real-time streams of content.

Camara et al (US 7039727) discloses a system and method for controlling mass storage class digital imaging devices.

Collins et al (US 5855483) discloses an interactive play with computer.

Application/Control Number:
10/690,081
Art Unit: 2621

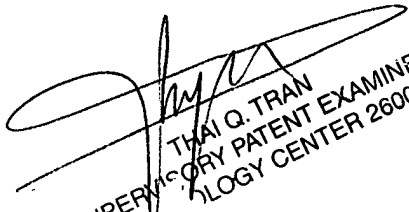
Page 13

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.Y.H.
1/15/2008


THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
BIOLOGY CENTER 2600